

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

400I0520

HOUSE ENGROSSED NO. **SB 63** - 03/04/2003

Introduced by: The Committee on State Affairs at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to repeal the sales tax exemption for certain interstate
2 telecommunication services.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-45-6.1 be amended to read as follows:

5 10-45-6.1. Except as provided in § 10-45-6.2, there is hereby imposed ~~on amounts paid for~~
6 ~~local telephone services, toll telephone services, and teletypewriter services,~~ a tax of four percent
7 ~~of the amount so paid. The taxes imposed by this section shall be paid by the person paying for~~
8 ~~the services. If a bill is rendered the taxpayer for local telephone service or toll telephone service,~~
9 ~~the amount on which the tax with respect to such services shall be based shall be the sum of all~~
10 ~~charges for such services included in the bill, except that if a person who renders the bill groups~~
11 ~~individual items for purposes of rendering the bill and computing the tax, then the amount on~~
12 ~~which the tax for each such group shall be based shall be the sum of all items within that group,~~
13 ~~and the tax on the remaining items not included in any such group shall be based on the charge~~
14 ~~for each item separately. If the tax imposed by this section with respect to toll telephone service~~
15 ~~is paid by inserting coins in coin operated telephones, the tax shall be computed to the nearest~~
16 ~~multiple of five cents, except that, where the tax is midway between multiples of five cents, the~~



~~next higher multiple shall apply. The tax so paid shall be remitted at the same time as the sales tax imposed by this chapter~~ upon the gross receipts from providing any telecommunication service that originates or terminates in this state and that is billed or charged to a service address in this state, or that both originates and terminates in this state. However, the tax imposed by this section does not apply to:

- (1) Any eight hundred or eight hundred type service unless the service both originates and terminates in this state;
- (2) Any sale of a telecommunication service to a provider of telecommunication services, including access service, for use in providing any telecommunication service; or
- (3) Any sale of interstate telecommunication service provided to a call center.

For the purposes of this section, the term, telecommunication service, is the transmission of signs, signals, writings, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, electromagnetic means.

Section 2. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as follows:

As used in section 1 of this Act, the term, call center, means any physical location where telephone calls are placed, or received, for the purpose of making sales, marketing, customer service, or technical support. The term does not include:

- (1) Any location where telephone calls are primarily placed to, or received from, the same taxpayer, or affiliates of the same taxpayer, that owns or operates the location; or
- (2) Any insurance, real estate, or brokerage company.

Section 3. That § 10-45-12.1 be amended to read as follows:

10-45-12.1. The following services enumerated in the Standard Industrial Classification Manual, 1987, as prepared by the Statistical Policy Division of the Office of Management and

1 Budget, Office of the President are exempt from the provisions of this chapter: health services
2 (major group 80); educational services (major group 82) except schools and educational services
3 not elsewhere classified (industry no. 8299); social services (major group 83); agricultural
4 services (major group 07) except veterinarian services (group no. 074) and animal specialty
5 services, except veterinary (industry no. 0752); forestry services (group no. 085); radio and
6 television broadcasting (group no. 483); railroad transportation (major group 40); local and
7 suburban passenger transportation (group no. 411) except limousine services; school buses
8 (group no. 415); farm product warehousing and storage (industry no. 4221); establishments
9 primarily engaged in transportation on rivers and canals (group no. 444); establishments primarily
10 engaged in air transportation, certified carriers (group no. 451); establishments primarily engaged
11 in air transportation, noncertified carriers (group no. 452) except chartered flights (industry no.
12 4522) and airplane, helicopter, balloon, dirigible, and blimp rides for amusement or sightseeing;
13 pipe lines, except natural gas (major group 46); arrangement of passenger transportation (group
14 no. 472); arrangement of transportation of freight and cargo (group no. 473); rental of railroad
15 cars (group no. 474); water supply (industry no. 4941); sewerage systems (industry no. 4952);
16 security brokers, dealers and flotation companies (group no. 621); commodity contracts brokers
17 and dealers (group no. 622); credit counseling services provided by individual and family social
18 services (industry no. 8322); construction services (division C) except industry no. 1752 and
19 locksmiths and locksmith shops; consumer credit reporting agencies, mercantile reporting
20 agencies, and adjustment and collection agencies (group no. 732), if the debt was incurred
21 out-of-state and the client does not reside within the state. The following are also specifically
22 exempt from the provisions of this chapter: financial services of institutions subject to tax under
23 chapter 10-43 including loan origination fees, late payment charges, nonsufficient fund check
24 charges, stop payment charges, safe deposit box rent, exchange charges, commission on travelers

1 checks, charges for administration of trusts, interest charges, and points charged on loans;
2 commissions earned or service fees paid by an insurance company to an agent or representative
3 for the sale of a policy; services of brokers and agents licensed under Title 47; the sale of trading
4 stamps; rentals of motor vehicles as defined by § 32-5-1 leased under a single contract for more
5 than twenty-eight days; advertising services; services provided by any corporation to another
6 corporation which is centrally assessed having identical ownership and services provided by any
7 corporation to a wholly owned subsidiary which is centrally assessed; continuing education
8 programs; tutoring; vocational counseling, except rehabilitation counseling; and motion picture
9 rentals to a commercially operated theater primarily engaged in the exhibition of motion pictures;
10 ~~and charges made by a telecommunications company for the origination, transmission, switching,~~
11 ~~reception, or termination of an interstate telephone or telegraph communication.~~

12 Section 4. That § 10-45-6.2 be amended to read as follows:

13 10-45-6.2. There is hereby imposed a tax of four percent upon the gross receipts of mobile
14 telecommunications services, as defined in 4 U.S.C. § 124(7) as of January 1, 2002, that
15 originate and terminate in the same state and are billed to a customer with a place of primary use
16 in this state or are deemed to have originated or been received in this state and to be billed or
17 charged to a service address in this state if the customer's place of primary use is located in this
18 state regardless of where the service actually originates or terminates. Notwithstanding any other
19 provision of this chapter and for purposes of the tax imposed by this section, the tax imposed
20 upon mobile telecommunication services shall be administered in accordance with 4 U.S.C.
21 §§ 116-126 as in effect on July 28, 2000.